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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

KIMBERLY ALLEN, Personal)
Representative of the ESTATE OF)
TODD ALLEN, Individually, on Behalf)
of the ESTATE OF TODD ALLEN, and)
On Behalf of the Minor Child)
PRESLEY GRACE ALLEN)

Plaintiff,)

vs.)

UNITED STATES OF AMERICA,)

Defendant.)

Case No.: A 04 - 0131 CV JKS

COMPLAINT

COMES NOW plaintiff, Kimberly Allen, Personal Representative of the Estate of Todd

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Allen, and for her cause of action against the defendant United States of America, states as follows:

I. Jurisdiction

1. At all times relevant hereto, Todd Allen was a resident of Valdez in the District of Alaska.

2. Todd Allen died in Anchorage, Alaska on April 19, 2003.

3. Kimberly Allen is the surviving spouse of Todd Allen.

4. Kimberly Allen has been appointed the Personal Representative of the Estate of Todd Allen. Letters of Administration from the Superior Court, Third Judicial District at Anchorage, Alaska, Case no. 3 AN-03-700 PR are attached hereto.

5. This cause of action arises under the Federal Tort Claims Act 28 U.S.C. sec. 1346, 2401, and 2671 et seq.

6. At all times relevant hereto, the Alaska Native Medical Center (ANMC) was an agent of the United States of America.

7. Employees/agents of ANMC were acting as employees/agents of the United States of America at the time of the events described herein.

8. ANMC and its employees/agents were acting in the scope of their agency/employment at the time of the events described herein.

9. More than six months ago, the claims set forth herein were presented to the United States Department of Health and Human Services, Public Health Service. Since that agency has failed to make a final disposition of the claim within that time period, plaintiff deems such failure to be a denial of her claim pursuant to 28 U.S.C. sec. 2675.

10. Based on paragraphs 1-9 above, this court has jurisdiction over the claims asserted

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herein.

II. Facts

11. On or about April 19, 2003, Todd Allen was evaluated at the ANMC emergency room.

12. Todd Allen told ANMC personnel that he had a very severe headache, which was located in the back of his head and radiated up to the top of his head, nausea, and vomiting.

13. Mr. Allen was examined and then discharged from the ANMC emergency room.

14. Later the same day, Mr. Allen's wife called the ANMC emergency room and reported her husband's symptoms to ANMC employees/agents. Mrs. Allen was not instructed to bring her husband to ANMC nor was she instructed to call 911.

15. Soon thereafter, Mrs. Allen noted that her husband was having periods of apnea. She tried to rouse her him and was unable to do so. At that time, she noted that her husband had spit out blood.

16. Mrs. Allen called 911. Paramedics arrived and attempted to resuscitate Mr. Allen. He was then transported by ambulance to Providence Hospital.

17. At Providence Hospital, a CT scan of Mr. Allen's head showed an extensive subarachnoid hemorrhage. Mr. Allen died shortly thereafter.

III. Allegations of Negligence

18. Plaintiff incorporates the allegations set forth in Paragraphs 1-17.

19. Agents and/or employees of ANMC either lacked the degree to knowledge and skill possessed by health care providers in their field of specialty or failed to exercise the degree of care ordinarily exercised under the circumstances by health care providers in their field or specialty.

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20. The negligent care and conduct of ANMC and its employees and/or agents was a direct and proximate cause of Todd Allen's death.

WHEREFORE plaintiff prays for judgment in her favor and against the defendant U.S.A.

VII. First Cause of Action: Survival Action (AS 09.55.570)

21. Plaintiff realleges the allegations set forth in Paragraphs 1-20.

22. During the period between Todd Allen's evaluation at ANMC and his death, he suffered severe pain and suffering, emotional distress, and fear of impending death.

23. The harm to Todd Allen was a direct and proximate result of the negligence of employees/agents of the U.S.A.

24. Plaintiff and Personal Representative Kimberly Allen brings her first cause of action for all categories of loss allowed under AS 09.55.570.

VIII. Second Cause of Action: Wrongful Death (AS 09.55.580)

25. Plaintiff realleges the allegations set forth in Paragraphs 1-24.

26. Plaintiff and Personal Representative Kimberly Allen brings her second cause of action for all categories of economic and non-economic loss allowed under AS 09.55.580, the Alaska Wrongful Death Act.

WHEREFORE Plaintiff Kimberly Allen in her capacity as Personal Representative of the Estate of Todd Allen prays for relief as follows:

1. Compensation for all categories of damages allowed under AS 09.55.570 and AS 09.55.580 in the total amount stated on Plaintiff's Standard Form 95, dated November 7, 2003.
2. All costs and other relief that is just in the premises.

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DATED this 14 day of June 2004, at Anchorage, Alaska.

LAW OFFICE OF PAULA M. JACOBSON
Attorney for Plaintiff

By: 

Paula M. Jacobson
ABA No.: 9011101

DATED this 14 day of June 2004, at Anchorage, Alaska

COOKE, ROOSA & VALCARCE
Attorney for Plaintiff

By: 

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